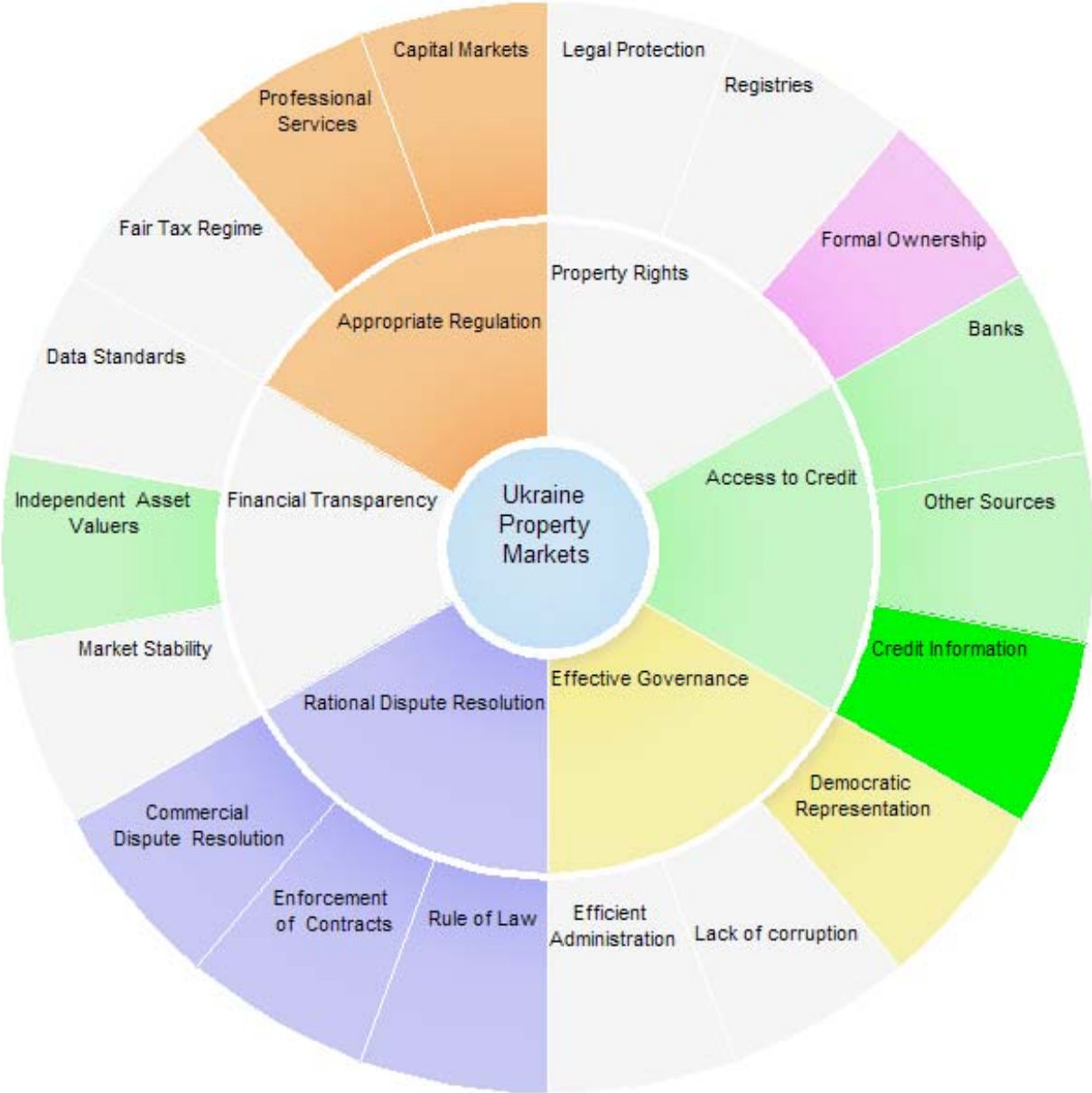


International Property Markets Scorecard

Ukraine Market Conditions – Complete Survey August 2009



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Scorecard Information & Background

The Scorecard reflects the status of the six Core Elements necessary for transparent and efficient property market development. Each Core Element includes three Lead Indicators that are further divided into Sub-Indicators. Colors signify the strength of institutions that support market development – very strong, strong and weak. No color indicates that institutions are very weak. Gray indicates more information is needed for an objective determination.

Acknowledgement

The International Property Markets Scorecard Project is the latest development in the continued cooperative work between the Center for International Private Enterprise (CIPE) and the International Real Property Foundation (IRPF). The work began in September 2002 and includes the booklet *Real Property Markets: The 'Real' Solution for Economic Development* jointly published by the Appraisal Institute, CIPE and IRPF. The Scorecard derives from the work of an academic panel led by Richard Green, PhD., Director of the University of California's Lusk Center for Real Estate and the University of Denver, Burns School of Real Estate and Construction Management's Global Real Estate Project under the direction of Dr. Mark Lee Levine.

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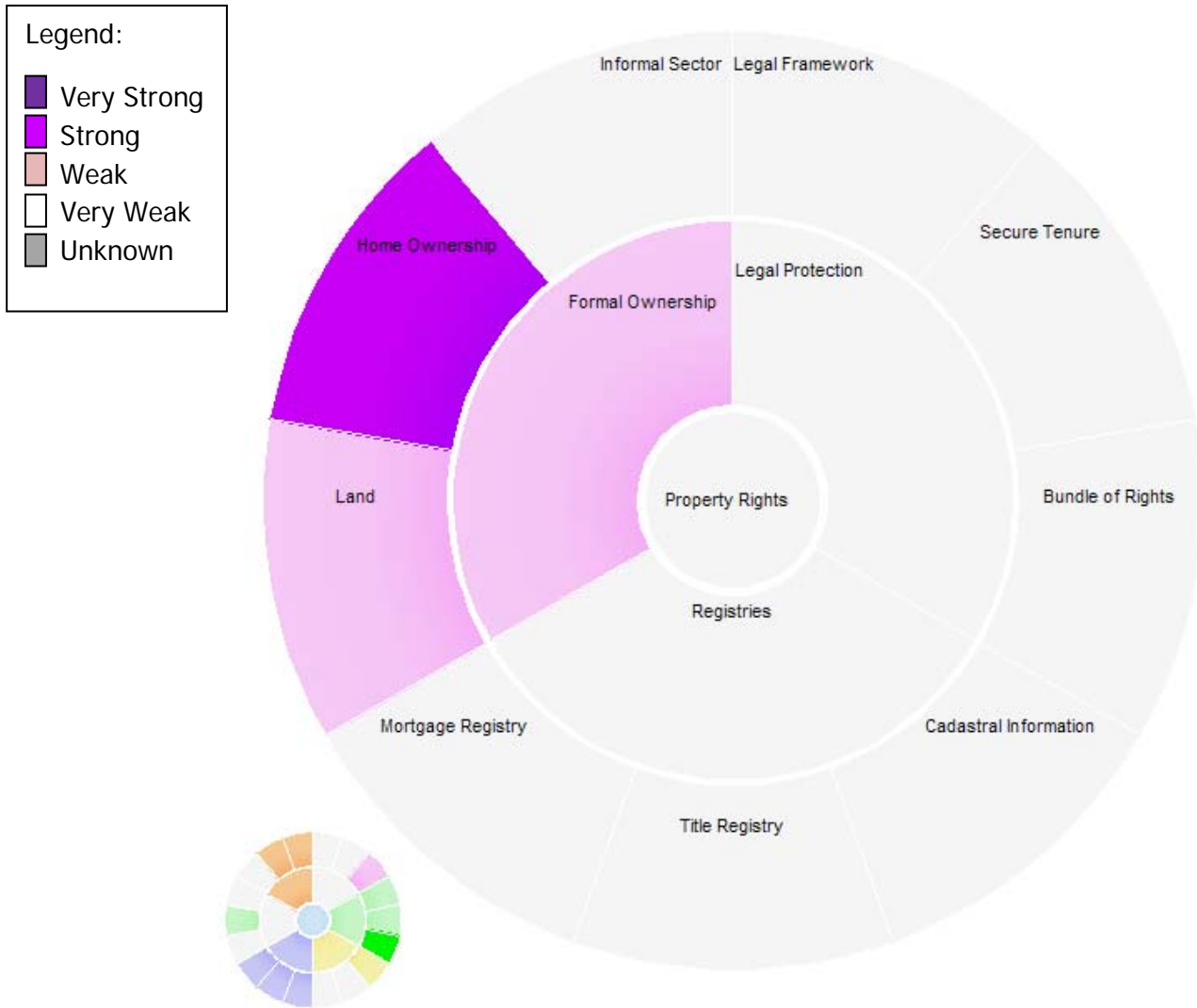
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1. Property Rights



Goal – Property rights that are legally protected, secure, recorded in a single, accurate, widely accessible electronic registry and that lead to high levels of formal ownership for all citizens

1.1 Legal Protection

Core Question:	Does an effective and sufficient legal framework exist to protect property rights for all citizens? No – Very Weak – Land privatization program is underway but progress is slow.
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Legal Framework

- 1.1.1 Are property rights clearly defined and protected by law?
No – Very Weak – Ranking – 123rd out of 134; Score 3.3 out of 7

Security of Tenure

- 1.1.2 Can citizens challenge the legality of government takings? **No – Very Weak – Ranking – 116th out of 134; Score 2.8 out of 7**

Source: *Global Competitiveness Report 2008* – World Economic Forum

www.weforum.org/documents/gcr0809/index.html

Bundle of Rights

Survey Question (SQ)

- SQ 1 What is the bundle of rights (group of rights such as occupancy, use and the right to sell or lease) associated with both residential and commercial property ownership? **Weak – the government places significant restrictions on land ownership.**

Source: *Land Reform in Eastern Europe*, Food & Agricultural Organization of the UN

www.fao.org/docrep/007/ad878e/AD878E02.htm#TopOfPage

1.2 Registries

Core Question:	Does a reliable property registry exist including cadastral, title and mortgage lien information? No – Very Weak – World Bank project is focusing on regional rather than national registers.
----------------	--

1.2.1 Cadastral Information

Status – Very Weak

Survey Questions

- SQ 2 Is cadastral information (information about the dimensions and location of land parcels) accessible to the public? **No – Very Weak, law On State Land Cadastre yet to be enacted**
- SQ 3 Is zoning/permitted use information included are use regulations respected and enforced? **No – Very Weak**
- SQ 4 Are Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information used to create and update the registry? **No – Very Weak**

World Bank Project: RURAL LAND TITLING & CADASTRE (P035777)

Country: Ukraine

Board Approval Date: 06/24/2003

Closing Date: 06/30/2012

Theme(s): Legal institutions for a market economy, Personal and property rights, State enterprise/bank restructuring and privatization, rural markets

Project Development Objectives:

The project seeks to establish a national cadastre and title registry system, allocate land parcels to individuals in rural areas on an equitable basis, establish their property rights by issuing state deeds for land, and encourage the restructuring of farms into more efficient units, with due consideration for environmental and social safeguards.

Progress toward achieving development objective(s):

The issuance of land titles is almost completed nationwide with over 6 million issued. The production of cadastre maps is underway and 21 regions have works in process. Legal and institutional problems have prevented the establishment of a unified property registration system. It has been agreed that the components dealing with the unified property registration system and farm restructuring will be cancelled and a full plan for project restructuring is underway. The project is still expected to achieve its objectives relating to the issuance of land titles in agricultural areas and the establishment of an automated system for recording these titles and registering transactions of land plots.

Source: www1.worldbank.org/operations/disclosure/SOPE/FY08/Country/SOPE_ECA_Ukraine.pdf

1.2.2 Title Registry

Very Weak –Ranking – 140th out of 181 Trend ↑

- 1.2.2.1 What is the number of procedures required to register the transfer of a property from one owner to another? **10**
- 1.2.2.2 What is the duration of time in calendar days that it would take to complete the transfer? **93 days**
- 1.2.2.3 What is the total cost of the transfer including all fees, taxes, etc. expressed as a percentage of the value of the property? **2.9%**

See **Appendix** for complete procedure for registering property

Source – *Doing Business* – Registering Property, World Bank
www.doingbusiness.org/ExploreEconomies/?economyid=194

1.2.3 Mortgage Registry

Status – Very Weak

Survey Questions

SQ 5 The mandatory use of notaries or similar officials slows down and adds cost to the process? Does a notary need to be involved in the registration process? **Yes**

SQ 6 Is information in the registry available electronically? **No**

SQ 7 Title insurance is indemnity insurance against financial loss from defects in title and from the invalidity or unenforceability of mortgage liens. Is title insurance available to lenders? **No**

1.3 Formal Ownership

Core Question: Do citizens understand and trust property rights institutions and avoid the informal sector? **No – Weak – High transfer tax leads to two sales contracts to hide value.**

Survey Questions

Land

SQ 8 What is the status of land ownership? **Weak – Reforms underway (see in-country assessment).**

Home Ownership

SQ 9 What is the percentage of formal home ownership? **87 – 94% from conversion of state-owned housing – Very Strong**

Informal Sector

SQ 10 What is the size of the informal economy as a percentage of GDP? **52.2% (2000)
Regional Average 38% - Very Weak Formal Sector**

Source: World Bank http://rru.worldbank.org/Documents/PapersLinks/informal_economy.pdf

In-Country Assessment Information

Field Question (FO) 1. What is the actual status of property rights and ownership for citizens?

Land rights in Ukraine are being restructured and land laws are not fully developed, especially concerning private ownership. Private ownership rights include three elements: the right to own, the right to use, and the right to dispose. This bundle of rights is subject to state authority over land use, taxation, and forms of eminent domain and police power. Private interests in buildings carry the same bundle of rights that travel with land.

At this time, ownership of land exists in the following forms: state, collective, and private. Until recently, all land in Ukraine was owned by some entity of the state – federal, oblast (state), rayon (county), city, settlement, and rural Radas. The term "ownership" appears only in the latest Land Code where previously the term "perpetual inheritance control" was used instead. In accordance with the latest Land Code, use of land which is not limited by previously established features of the Code is viewed as permanent.

Although private land ownership is growing, current ownership patterns reflect prior Land Codes. Per prior codes, Ukrainian citizens could be granted perpetual use of up to 0.1 hectare in cities, 0.15 hectare in municipal districts, and 0.25 hectare in villages.

With evolution of a market economy, Ukraine is developing a land privatization program. Under this program, individuals and legal entities of Ukraine who do not own shares of a state-owned property have a right to privatization of land parcels. Privatization is carried out by appropriate state administrations and executive committees of local Radas by sale of such land parcels. Privatization can occur from sale of parcels or from the sale of leasehold rights that may convert to private ownership with future revisions of the Land Code which are expected. Land parcels are transferred to collective and private ownership by councils of peoples' deputies in the area in which the parcels are located. Ownership or right to perpetual use of land is certified by state acts issued and registered with local councils of peoples' deputies (Bureau of Technical Inventory).

The same three forms of ownership exist for buildings in Ukraine: state, collective, and private. But relative to land, there is a higher proportion of buildings and improvements that are in private ownership. Privatization has been most progressive in residential property where ownership interests in apartments are vested in historical occupants upon registration of a privatization agreement.

Foreign entities cannot directly own real property in Ukraine. Such entities must register as Joint Stock interests (closed or open), Limited Liability Corporations, or Partnerships with Ukrainian interests.

FQ 2. What is the actual experience of transferring a property?

VAT tax is 18% and applicable to real estate transactions. This is why there are two contracts for transactions, one for the government for VAT, another for personal transaction verification that could be used in courts. In addition there is one contract for land and another for improvements for real estate transactions.

Real property transfers are archived in the Bureau of Technical Inventory and/or the Zhek (literally translated as "residential exploitation board") of the administrative unit (city, settlement, oblast, rayon) in which the property is located. Instruments creating estates, interests, rights, encumbrances, and liens are not completely standardized. Research revealed that there are consistent forms for sale-purchase contracts. Documents securing properties as collateral or evidencing liens are filed with the rayon Notary Public. But although notarized, many documents are not legally valid and do not suitably document interests in real estate.

Procedurally, the Ukrainian Civil Code requires that real estate transactions be executed before a notary public where one of the parties is a physical entity. Alternatively, the Law "On Commodity Exchanges" permits certain commodity exchanges to execute real property sale-purchase agreements. This was confirmed by DTZ brokerage in Kiev. While both alternatives exist in theory, the frequent difficulties in dealing with state-owned notary publics have forced most sale-purchase agreements to be executed at the commodity exchanges.

Recording can occur in three places:

Government Notary Public – Disadvantages: Standard sale-purchase agreements recite only basic transfer information and omit integral contract provisions, contingencies, warranties, etc. Unpublished regulations issued to Government Notary Publics create non-uniform barriers to transactions.

Private Notary Public – Advantages: Once licensed, the powers of private notary publics are equal to those of government notary publics with fewer complications of bureaucracy.

Commodity Exchange - Advantages: Transactions can be structured to include any provision, contingency, warranty, reservation, etc. that cannot be included in standard government notary sale-purchase documents. Unlike the government notary public, commodity exchanges do not inquire concerning the payment mechanism or currency used making transactions more efficient.

Source: The Global Real Estate Project – Burns School, University of Denver
<http://burns.dcb.du.edu/countryDetailRealPropertyIssues.asp?id=74>

FQ 3. What are the actual housing conditions for all groups including the poor, minorities and other marginalized groups?

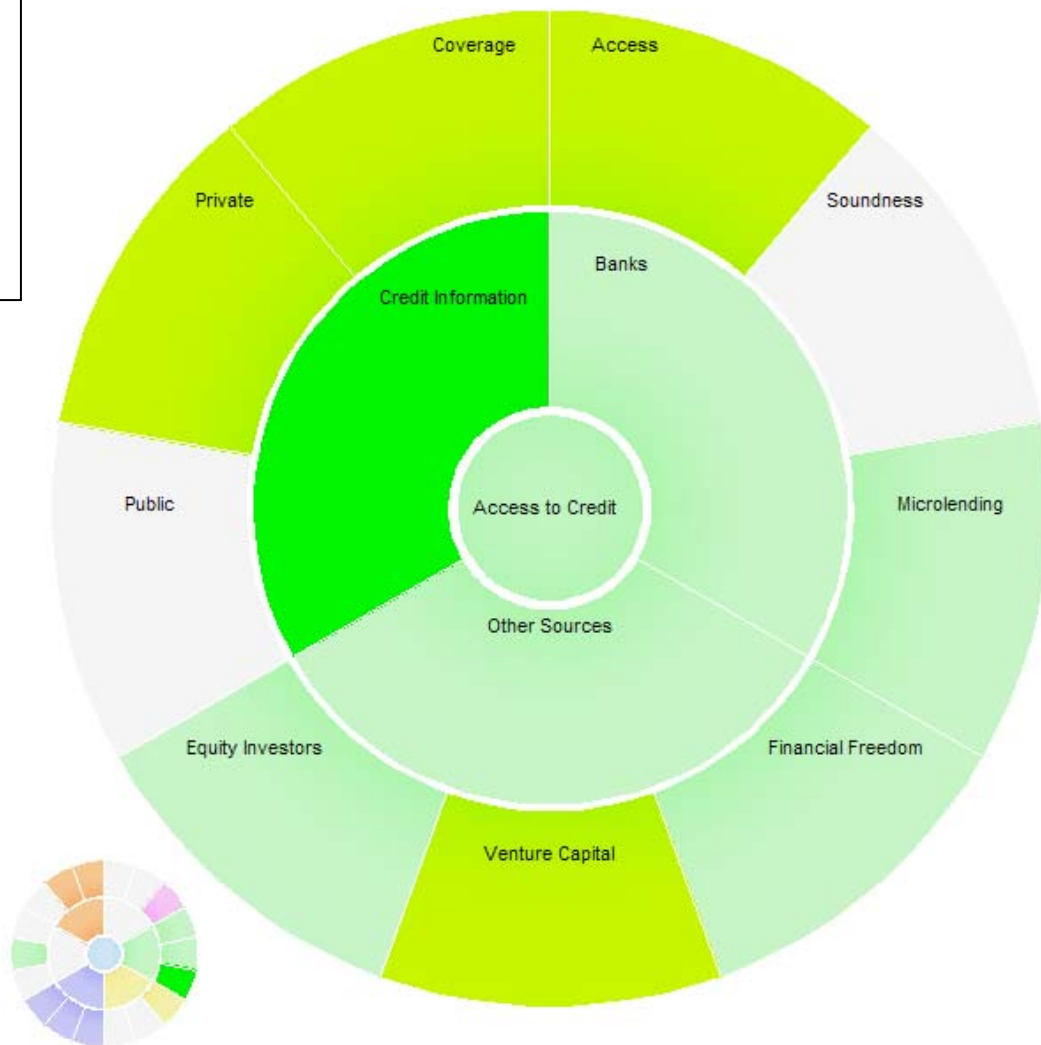
The incidence of home ownership is estimated between 87%-94%. One expert suggested that the only non-privatized residential properties were those which were really hotels or where the resident did not have an heir. Far fewer commercial properties have been privatized especially large and complex companies.

The number of housing units in the country is approximately 20,000,000.
(47,000,000 population divided by approximately 2.4 person's per unit)

The one substantial difficulty in operating within the market structure is the lack of information from the Bureau of Housing Inventory. The Bureau only allows owners to access the information and not even lenders with a lien right on the property can examine title (even if they have the permission of the owner). Since there is little market transparency, there is substantial reputed corruption where owners will bribe the registrars to falsify information.

Source: IRPF Assessment February 2006

2. Access to Credit



Goal – An efficient, transparent financial sector that provides a broad range of citizens with access to multiple forms of competitive credit so that they can start businesses, build wealth, and purchase property

2.1 Banks

Core Question: Are traditional banking services robust and extensive enough to serve the needs of the population to help them build wealth and purchase property? **Yes – Weak, banks stabilizing global financial crisis**

Access

2.1.1 How easy is it to obtain a bank loan? **Strong – Ranking – 66th out of 134**
Score 3.4 out of 7

Soundness

2.1.2 How sound are the country's banks? **Very Weak – Ranking – 112th out of 134**
Score 4.7 out of 7

Source: *Global Competitiveness Report*

World Economic Forum www.weforum.org/documents/gcr0809/index.html

2.1.3 Microlending

Status – Weak – ProCredit Bank highly rated by Fitch Ratings

2.1.3.1 Microfinance allows citizens without traditional creditworthiness to build a credit history. How many microfinance institutions are operating in the country? **2**

HOPE Ukraine

www.hopeinternational.org/site/PageServer?pagename=work_countries_ukraine

ProCredit Bank Ukraine <http://en.procreditbank.com.ua/?setlang=en>

2.1.3.2 What is the number of active borrowers per institution?

HOPE Ukraine – 3,515

ProCredit Bank – 52,894

Source: Microfinance Information Exchange www.mixmarket.org/mfi

2.2 Other Sources

Core Question:	Are entrepreneurs free to raise capital outside the banking system including venture capital and/or by issuing stock in a well-regulated stock exchange? No – Weak, regulatory burdens, corruption and policy uncertainly still restrict capital.
----------------	--

Financial Freedom

2.2.1 How much control does the government exert over financial services?
Weak for entrepreneurs – Score 40 out of 100 – Strong government control

Source: *Index of Economic Freedom* – the Heritage Foundation

www.heritage.org/index/Country/Ukraine

Venture Capital

2.2.2 How easy is it for entrepreneurs to find venture capital?

Strong - Ranking – 58th out of 134

Equity Investors

2.2.3 How easy is it to raise money by issuing shares on the stock market?

Weak – Ranking – 92nd out of 134

Source: *Global Competitiveness Report 2008* – World Economic Forum

www.weforum.org/documents/gcr0809/index.html

2.3 Credit Bureau

Core Question:	Is comprehensive credit information available through public and private credit bureaus? Yes – Very Strong
----------------	---

Overall Ranking – 28th out of 181 Trend ↑

Coverage

2.3.1 What is the depth of credit information available? **Score – 3 out of 6 with a higher number indicating more information is available**

Public

2.3.2 What is the extent of public credit registry coverage? **Not available**

Private

2.3.3 What is the extent of private credit bureau coverage? **3% of adults**

Source: *Doing Business* – Getting Credit, World Bank

www.doingbusiness.org/ExploreEconomies/?economyid=194

In-Country Assessment Information

FQ 4. How available are mortgages for purchasing property, who is the typical user and what are the prevailing trends?

The Land Code of Ukraine indicates that land may be used as collateral for mortgage. Instruments do exist that hypothecate real property as security of debt.

As real estate financing institutions are not developed, mortgages are not commonly available or used. No formal financing exists for small to moderate scale commercial or residential real estate acquisition or construction. Transactions and construction expenditures are conducted in cash. International institutional financing exists for special projects such as hotels.

Source: The Global Real Estate Project – Burns School, University of Denver

<http://burns.dcb.du.edu/countryDetailRealPropertyIssues.asp?id=74>

FQ 5. What are the interest rates, term and loan-to-value ratios for available mortgages?

There is financing available by some institutions in the cities with populations of 1 million or more. Practitioners estimate that between 20%-30% of their new transactions use a mortgage and that borrowers attempt to pay off the mortgage as soon as possible, in many instances in 1 – 3 years. Transactions using mortgages remain less than ½ of 1% of the total.

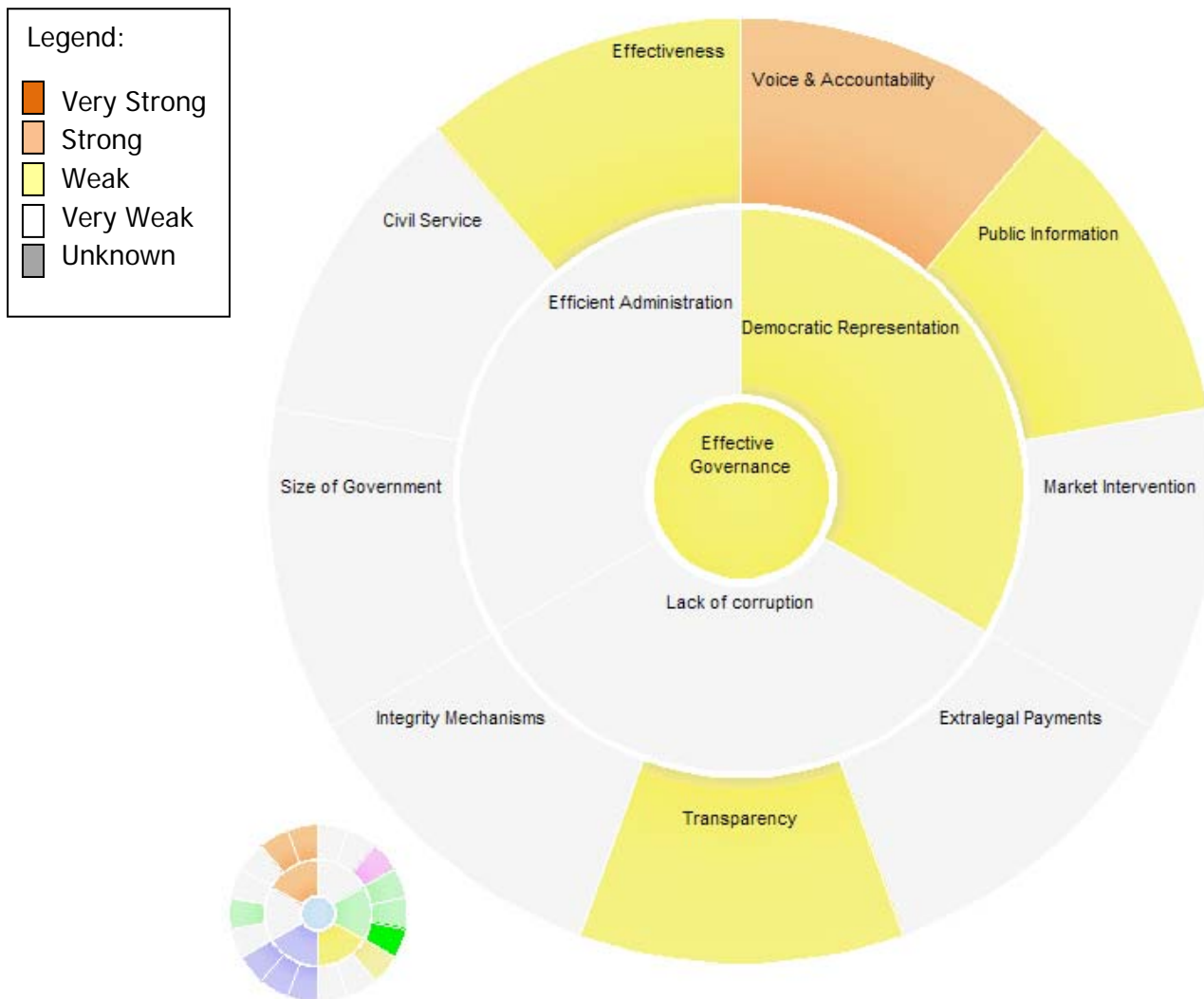
Interest Rates: 10½% - 13% for residential properties, 12%-14% for commercial LTV: 70-80%
Term: Between 15-30 years.

FQ 6. Are there any informal barriers to borrowing such as for women or minorities?

Unknown

Source: IRPF Assessment February 2006

3. Effective Governance



Goal – A popularly elected government free of corruption and functioning efficiently and transparently enough to guarantee economic freedom to individuals and support equitable property markets

3.1 Democratic Representation

Core Question:	Does the country have free and open elections for the leadership and can citizens engage in free enterprise? No – Weak, privatization of important sectors delayed
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3.1.1 Voice & Accountability

- 3.1.1.1 Are citizens able to elect their government and do they enjoy freedom of expression, association and a free media? **Yes – Strong; Percentile Rank – 47.1 Trend ↑**

Source: *Governance Matters 2008*, World Bank
http://info.worldbank.org/governance/wgi/sc_chart.asp

- 3.1.1.2 Are citizens free to form political and civic organizations free of state interference and surveillance? **Yes – Strong – Score 7.94 out of 10**

Overall Ranking – 53rd out of 167

Source: *The Economist* Intelligence Unit Democracy Index
<http://a330.g.akamai.net/7/330/25828/20081021185552/graphics.eiu.com/PDF/Democracy%20Index%202008.pdf>

3.1.2 Public Information

Overall Score – Weak 68 out of 100 (2007) ↓

- 3.1.2.1 Are the regulations governing conflicts of interest in the executive and legislative branches of government effective? **No – Executive Score 57 out of 100 – Very Weak; Legislative Score 37 out of 100 – Very Weak (2007)**
- 3.1.2.2 Can citizens access legislative processes and documents?
Yes – Score 85 out of 100 - Strong (2007)

Source: *Global Integrity Report* – <http://report.globalintegrity.org/Ukraine/2007>

3.1.3 Market Intervention

Overall Ranking – Very Weak – 152nd out of 179 Trend ↓

- 3.1.3.1 To what extent does the government intervene in the private sector including state owned industries? **Score 39 out of 100 with a higher score indicating less intervention**
- 3.1.3.2 To what extent does the government control prices? **Score 68 out of 100 with a higher score indicating less control**

Source: *2009 Index of Economic Freedom* – Heritage Foundation
www.heritage.org/index/Country/Ukraine

3.2 Lack of Corruption

Core Question:	Is the public sector transparent and free of corruption? No – Very Weak, spending levels indicate public sector employees receive unobserved monetary compensation.
----------------	--

Transparency

3.2.1 What is the perceived level of corruption in the country? **High levels – Weak; Ranking – 134th out of 180; Score 2.5 out of 10 Trend ↓**

Source: *Corruptions Perception Index*, Transparency International
www.transparency.org/policy_research/surveys_indices/cpi/2008

Integrity Mechanisms

3.2.2 A National Integrity System is a framework where the principle institutions that contribute to integrity, transparency and accountability in a society can address corruption in a systematic way. Does a National Integrity System exist? **No – Very Weak**

Source: *National Integrity Assessments*, Transparency International
www.transparency.org/policy_research/nis

Extralegal Payments

Survey Question

SQ 11 How often do companies report that officials and/or companies expect additional payments to “expedite” services or gain business? **Non-reported compensation in the public sector is high. Very Weak**

Source: *Measuring Bribery in Ukraine’s Public Sector*, Institute for the Study of Labor (IZA)
<http://go.worldbank.org/PHRAO7FMMO>

3.3 Efficient Administration

Core Question:	Are quality services and qualified civil servants available to the public through the efficient use of public money free of corruption? No – Very Weak, bureaucratic inefficiencies make commercial operations difficult.
----------------	--

Size of Government

3.3.1 What is the size of government relative to GDP? **45.1% - 25 to 30% considered optimum – Very Weak**

Source: *2009 Index of Economic Freedom*, Heritage Foundation
www.heritage.org/index/Country/Ukraine

Civil Service

3.3.2 What is the quality of the civil service? **Score – 41 out of 100 – Very Weak**

Source: *Global Integrity Report 2007* – <http://report.globalintegrity.org/Ukraine/2007>

Government Effectiveness

3.3.3 What is the overall effectiveness of the government? **Weak - Percentile Ranking – 32.7 Trend ↑**

Source: *Governance Matters 2008*, World Bank
http://info.worldbank.org/governance/wgi/sc_chart.asp

In-Country Assessment Information

FQ 7. What is the actual experience of practitioners in dealing with the government?

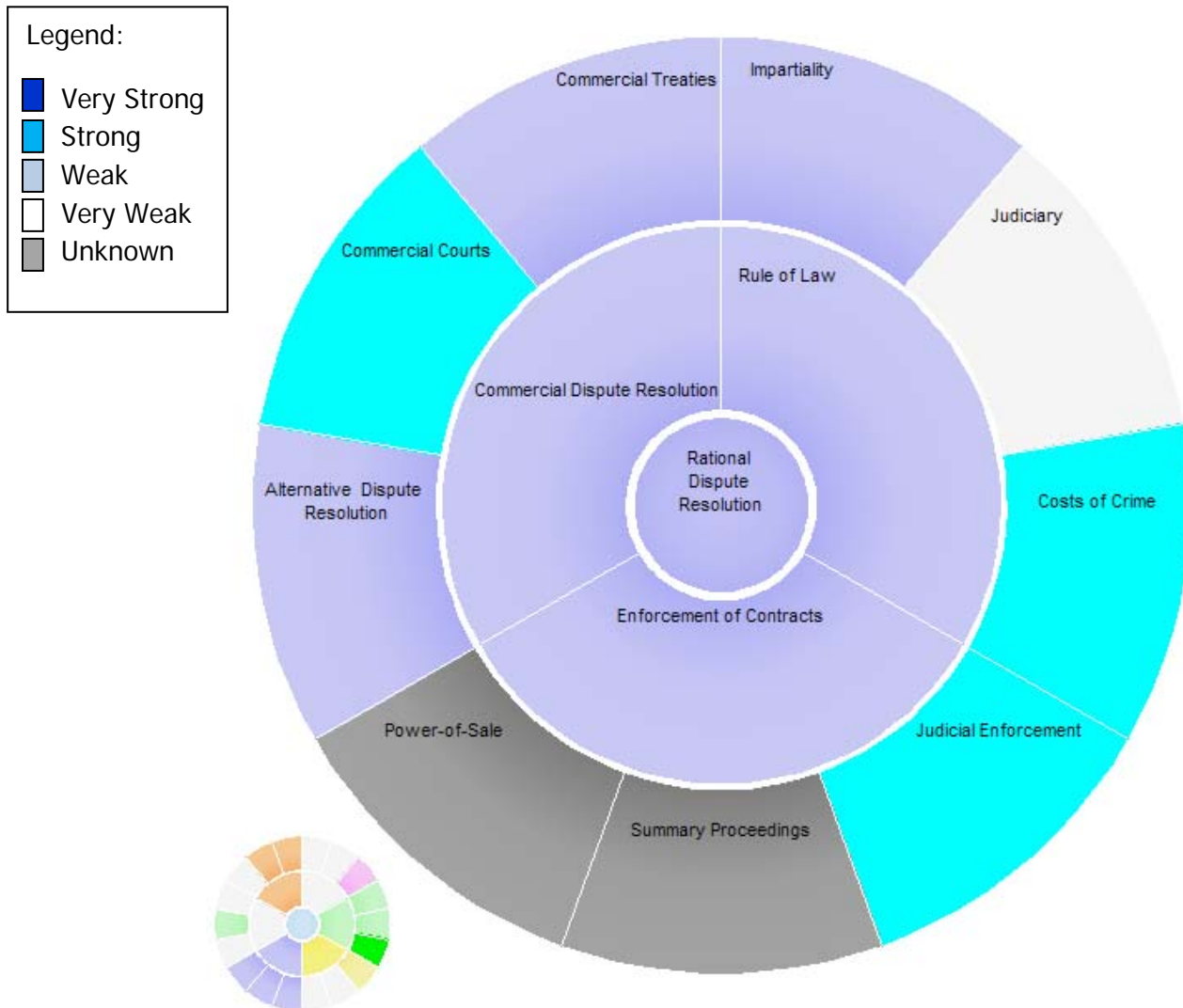
It was generally felt that because of the nature of the government's intrusion into people's personal lives, they had very little interest in sharing market and transaction information. Since there is little market transparency, there is substantial reputed corruption where owners will bribe the registrars to falsify information.

There also seems to be a political problem within the appraiser's association (UTO) and the State Property Fund. The new Socialist leader has encouraged a splinter group to form and become active, as opposed to preceding State Property Fund head who looked primarily to UTO for valuation and appraisal services. This probably means that there will be some "political" valuations done in subsequent privatization efforts.

Since the new Socialist Party Chairman has arrived, no additional privatization has taken place. One can assume that there is some validity to the idea that privatization is being delayed until there are more "flexible" valuers with which to work.

Source: IRPF Assessment February 2006

4. Rational Dispute Resolution



Goal – An efficient institutional framework that balances the rights of the public, owners, lenders and borrowers in the event of a dispute or loan default

4.1 Rule of Law

Core Question: Do all market participants abide by the rule of law and have confidence in the courts and the ability of the police to control crime? **No – Weak, many believe court decisions can be bought.**

Impartiality

4.1.1 What is the confidence level of the strength and impartiality of the police, courts and contract enforcement? **Weak – Percentile Ranking – 27.6 Trend ↑**

Source: *Governance Matters 2008*, World Bank
http://info.worldbank.org/governance/wgi/sc_chart.asp

Judiciary

4.1.2 Can members of the judiciary be held accountable for their actions? **No – Score 58 out of 100 – Very Weak**

Source: *Global Integrity Report* – <http://report.globalintegrity.org/Ukraine/2007>

Costs of Crime

4.1.3 What are the business costs of crime and violence? **Lower Costs – Ranking 46th out of 133; Score 5.3 out of 10 – Strong**

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr09/index.html

4.2 Enforcement of Contracts

Core Question:	Are systems in place for timely and efficient enforcement of contracts? Commercial – Yes – Strong; Residential - Unknown
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4.2.1 Judicial Enforcement

Commercial – Strong – Ranking 49th out of 181

4.2.1.1 What is the number of procedures involved in resolving a commercial dispute? **30**

4.2.1.2 What is the time between the filing of a lawsuit and resolution in judicial enforcements? **354 Days**

4.2.1.3 What is the cost of judicial enforcements as a percentage of debt value? **41.5%**

Source: *Doing Business* – www.doingbusiness.org/ExploreEconomies/?economyid=194

Residential – Unknown

Survey Questions

SQ 12 What is the time between notice of intent to foreclose and loan collection in judicial enforcements? **Unknown**

SQ 13 What is the cost of judicial enforcements as a percentage of property value? **Unknown**

4.2.2 Summary Proceedings

SQ 14 What is the time between notice of intent to foreclose and loan collection in summary proceedings if available to lenders? **Unknown**

SQ 15 What is the cost of summary proceeding if available to lenders as a percentage of property value? **Unknown**

4.2.3 Power-of-Sale

SQ 16 What is the time between notice of intent to sell and loan collection for power-of-sale agreements if available to lenders? **Unknown**

SQ 17 What is the cost of power-of-sale agreements if available to lenders as a percentage of property value? **Unknown**

Source – *Financing Homes 2008*, World Bank and International Housing Finance Corporation
[www.ifc.org/ifcext/sme.nsf/AttachmentsByTitle/financinghomes/\\$FILE/FinancingHomes.pdf](http://www.ifc.org/ifcext/sme.nsf/AttachmentsByTitle/financinghomes/$FILE/FinancingHomes.pdf)

4.3 Commercial Dispute Resolution

Core Question:	Can commercial disputes be resolved fairly and efficiently without exorbitant expense and delay? No – Weak, bureaucratic process is complicated, arbitration mechanisms are improving.
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Survey Questions

Commercial Courts

SQ 18 Do specialized commercial courts exist for the handling of property disputes and foreclosures? **Yes – Weak, judges remain unaccountable.**

Source: Consulate General of Ukraine in Chicago
www.ukrchicago.com/tem/Business/commercial_courts.htm

Alternative Dispute Resolution

SQ 19 Are alternative dispute resolution mechanisms in place including commercial arbitration, private mediation and community based processes? **Yes – Weak, Ukrainian Arbitration Center opened in January 2008 in cooperation with IFC.**

Sources: Ukrainian Arbitration Center <http://ukrmediation.com.ua/en/>
Ukrainian Chamber of Commerce & Industry www.ucci.org.ua/en/about.html

Commercial Treaties

SQ 20 What bilateral, regional and international commercial treaties exist concerning business between countries? **Strong – U.S., in negotiations with E.U., Canada, member WTO**

Source: Ministry of Economy Ukraine www.me.gov.ua/

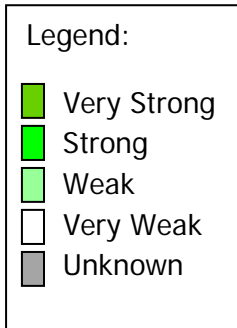
In-Country Assessment

FQ 8. To what extent do practitioners report contracts as enforceable?

It appears that the brokerage community has some confidence that the deposit agreement and vital contracts drafted by the notary publics are enforceable. Several indicated that they had been to court over deposits that sellers refused to return and the courts had sided with the buyers in each instance. In addition, the hearings held can occur within 2-3 days, as opposed to the lengthy delays in most countries.

Source: IRPF Assessment February 2006

5. Financial Transparency



Goal – A well developed and transparent financial system that includes strong supporting institutions and highly trained and ethical professionals that contribute to effective financial intermediation and deep and broad access to capital and financial services

5.1 Market Stability

Core Question: Are market risks sufficiently transparent and diversified so that efficient capital allocation can occur? **No – Very Weak, banking system is rigid and bankruptcy process is slow and costly.**

Financial Reporting

5.1.1 What is the strength of the country's auditing and reporting standards? **Very Weak – Ranking – 113th out of 134; Score 3.7 out of 7**

Market Sophistication

5.1.2 What is the overall level of financial market sophistication in the country? **Weak – Ranking – 91st out of 134; Score 3.6 out of 7**

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr0809/index.html

Insolvency Process

Very Weak – Ranking – 143 out of 181

5.1.3 What is the average time to complete bankruptcy proceedings? **2.9 Years**

5.1.4 What is the cost of bankruptcy proceedings as a percentage of the estate? **42%**

5.1.5 What is the recovery rate of bankruptcy proceedings? **9.1 cents on the dollar**

Source: *Doing Business* – Closing a Business
www.doingbusiness.org/ExploreEconomies/?economyid=194

5.2 Independent Asset Valuers

Core Question:	Do highly trained, independent and ethical valuers exist for real property, natural resources, machinery and equipment and intangible assets? Weak – considerable development of the profession over the last several years
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Survey Questions

Standards

SQ 21 How easy is it to find a valuer who implements International Valuation Standards?
Weak – Situation improving, Ukrainian Appraisal Society a member of International Valuation Standards Council (IVSC) and has developed compliant national standards.

Civil Society Resource: International Valuation Standards Council www.ivsc.org

Training

SQ 22 What is the level of training of valuers? **Weak – IVSC compliant certification program underway**

Civil Society Resource: Appraisal Institute www.appraisalinstitute.org

Ethics

SQ 23 Are opinions offered by valuers free of influence from parties to the transaction? **Unknown**

Civil Society Resource: Ukrainian Society of Appraisers

5.3 Data Standards

Core Question:	Is accurate property information available electronically in formats that are consistent with international standards? No – Very Weak
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Survey Questions

Sales & Operating Data

SQ 24 A multiple listing service is an electronic exchange system where brokers and agents can widely share contracted real estate listings of properties that are for sale. Do multiple listing type services exist? **No – Very Weak**

Civil Society Resource: International Consortium of Real Estate Associations www.worldproperties.com

SQ 25 Do resources exist for obtaining building income and expense estimates? **No – Very Weak**

Civil Society Resource: Institute for Real Estate Management – www.irem.org

Interchange Formats

SQ 26 Do electronic data interchange formats conform to international standards (ebXML – electronic business using extensible markup language)? **No – Very Weak**

Civil Society Resource: Open Standards Consortium for Real Estate International www.oscre.org

Technical Standards

SQ 27 Do building codes and office building measurement standards (ANSI/BOMA Z65.1) conform to international standards? **No – Very Weak**

In-Country Assessment

Market Stability

FQ 9. How stable has the property market been over the last several years?

The global financial crisis brought an end to a real estate boom in Ukraine and investors are now have a “wait and see” attitude.

Valuation Profession

FQ 10. How many independent valuers exist in the market?

The State Property Fund regulates valuers and lists 6,000 total individual appraisers of which 3,000 are active and independent.

FQ 11. How many companies exist and what is the average size of valuation companies?

There are an estimated 700 appraisal entities in Ukraine of which about ½ work on a regular basis. They range in size from 2 or 3 persons to 20-30 in branch operations. About 100 companies are substantial and highly recognized.

FQ 12. What are the valuation standards and do they conform to international and regional standards (TEGoVA)?

There is an appraisal law on the books from 2001. It sets out some methodology but does not conform to TEGoVA or the International Valuation Standards (IVS). In fact, the legislation in some instances is in conflict with the IVS.

FQ 13. What valuation methods and techniques are used in the market?

Real property valuation is conducted for the benefit of foreign investors. Complications involve scarce comparable transaction data and minimal operating data from which to develop opinions of value. Big six accounting firms of Kiev are active in appraisal work.

Banks are required by regulation to have independent third-party appraisers but most ignore this or add another layer of appraisal review and reduce the values accordingly because they do not trust independent valuers. International corporations need regular re-evaluation and that is a major source of appraisal income in larger companies – up to 30% of business.

While no companies were found that international investors or corporations would hire directly, the big three accounting firms sub-contract with some of the better appraisers to do the preliminary analysis for their review.

FQ 14. Are there valuer associations in the market? What number and percentage of practitioners belong?

The Ukrainian Appraisal Society (UTO) has been in existence since 1995. It has 5,000 members and acts as the de-facto regulatory body outside of privatization. Members can appraise all types of assets.

The Association of Appraisers of Ukraine is an organization set up by the State Property Fund with approximately 300 members, mostly young students coming out of the Kiev Real Estate College to continue to exert political influence on the profession.

FQ 15. What training programs are available to upgrade the quality of valuers?

Substantial training programs are offered by the Kiev Real Estate College and various other schools and institutes totaling 36 in the country. In addition, UTO sponsors regular continuing education programs through eight outlets throughout the country.

FQ 16. Are peer review mechanisms in place to assist in enforcing ethical behavior?

The UTO has an enforcement policy where, if a member complains, there can be a peer review of reports. If the reports are found to be deficient, the member is asked to upgrade their practice and improve their report writing. This peer review has been a source of frustration and is one of the reasons why UTO members feel that the new splinter appraisal group was formed because valuers didn't either have the skills nor wanted the discipline.

FQ 17. What is the quality of valuation reports?

Reports generated by the leading appraisers subscribe to TEGoVA standards. They have sophisticated analysis and substantial mathematical tables. The reports prepared by bank valuers, however, are one to two pages with very little detail and a portfolio of photographs.

Data Availability

FQ 18. What is the status of proprietary data bases that include property information?

There have been attempts at creating a Multiple Listing Service from the Kiev Real Estate Institute as well as a data sharing agreement in Odessa. These are encouraging signs that efforts are beginning to emerge in the marketplace to share information and data and bring greater efficiency and transparency to the market.

One brokerage company has 30,000 residential properties in its data base going back 15 years. Each larger company maintains its own data base. Banks are also starting to create internal data bases from mortgages that they have let.

FQ 19. What is the status of existing data sharing mechanisms for properties that are for sale or that have sold?

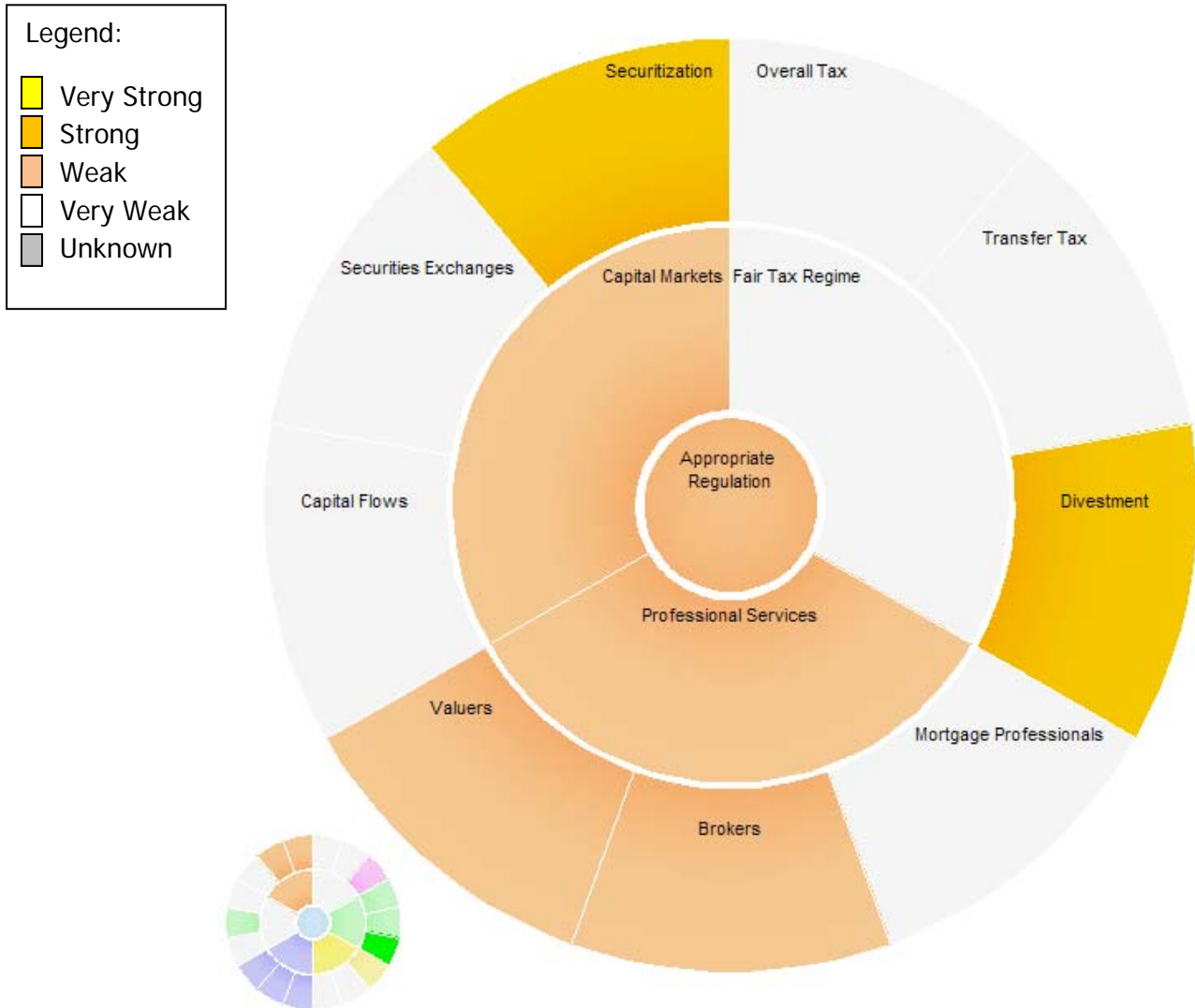
The networking agreements in Odessa are quite sophisticated. Seventeen companies submit information on properties as well as pricing. This represents about 40% of the market which allows a substantial grasp on values by both property type and location. The MLS at the Kiev Real Estate Union had a very limited number of properties listed.

FQ 20. Do valuers have an established data sharing mechanisms?

Most valuation firms have accumulated their own data base and rely on broker relationships and other leading valuers to accumulate data. Some firms were willing to share data. There is no central data base or service available to get current and updated market changes. As markets move at a rapid rate, particularly in Kiev, this puts valuers at a disadvantage especially on residential properties.

Source: IRPF Assessment February 2006 and updates from the field

6. Appropriate Regulation



Goal – A comprehensive regulatory regime that is transparent, efficient, simple in its implementation and that leads to accurate reporting of property values and prudent protection from market risks

6.1 Fair Tax Regime

Core Question:	Do market participants feel the overall tax rate is fair and participate in formal transactions? No – Very Weak, overall tax rate (including mandatory pension contribution) is extremely high.
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Transfer Tax

6.1.1 What is the total property transfer tax including all duties and payments?
20% VAT on buildings – Very Weak

Overall Tax

6.1.2 What is the overall tax rate on entrepreneurs? **Very Weak – 58.4%; Ranking 180th out of 181**

Source: *Doing Business* – Paying Taxes & Registering Property, World Bank
www.doingbusiness.org/ExploreEconomies/?economyid=194

Divestment

Survey Question

SQ 28 What is the tax on profits for foreign investors when divesting property? **15% withholding unless otherwise provided for by treaties - Strong**

Source: *Doing Business in Ukraine*, Baker & McKenzie
www.bakernet.com/NR/rdonlyres/2406C6C7-DD18-4C6B-BF4B-3E0D7E87324C/0/dbi_ukraine_09.pdf

6.2 Professional Services

Core Question:	Are the professional services necessary for efficient and transparent property markets available and appropriately regulated and supervised? No – Weak, associations have developed, but disciplinary actions are rare.
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Asset Valuers

Survey Questions

SQ 29 Are asset valuers licensed and/or certified by the government? **Yes - Weak**

Civil Society Resource: The Appraisal Foundation www.appraisalfoundation.org

SQ 30 How effective are mechanisms in place to discipline valuers who engage in misconduct?
Ineffective - Weak

See pages 22 – 24 for in-country assessment information on valuers.

Civil Society Resource: International Real Property Foundation www.irpf.org

Brokers & Agents

Survey Questions

SQ 31 Are real estate brokers and agents licensed and/or certified by the government? **Yes – Weak – many inactive or illegal agents**

SQ 32 How effective are mechanisms in place to discipline brokers or agents who engage in misconduct? **Ineffective - Weak**

Civil Society Resource: International Real Property Foundation www.irpf.org

Mortgage Professionals

Survey Questions

SQ 33 Are mortgage professionals licensed and/or certified by the government? **No – Very Weak**

SQ 34 How effective are mechanisms in place to discipline mortgage professionals who engage in misconduct? **Unknown**

6.3 Capital Markets

Core Question:	Are capital markets well-regulated and diversified enough to provide financial resources to private-sector entrepreneurs and innovators? No – Weak, underdeveloped capital markets are poorly regulated.
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Capital Flows

6.3.1 How restricted is the flow of capital into and out of the country? **Very Weak – Ranking – 110th out of 134; Score 3.7 out of 7**

Security Exchanges

6.3.2 Is the regulation of securities exchanges transparent, effective and free of influence from government and industry? **Very Weak – Ranking – 120th out of 134; Score 3.1 out of 7**

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr0809/index.html

Securitization

6.3.3 What is the depth of asset-backed securities, mortgage-backed securities, high-yield bonds and highly leveraged loans? **Strong – Ranking – 16th out of 52**

Source: *Financial Development Report 2008* – World Economic Forum
www.weforum.org/pdf/FinancialDevelopmentReport/2008.pdf

In-Country Assessment

Taxation

FQ 21. What is the overall taxation overview system in regards to property?

There are several layers of taxes at the point of closing. A 1% fee for the notary, a 1% contribution to the Pension Fund, a transfer fee recently limited to no-charge for the first 100 square meters and 1% for any square meters above that and a registration fee to the BTI of 40-60 UAH. A 20% VAT tax is added to building sales. 25% corporate income tax for profits within Ukraine, 15% withholding for divestiture unless part of a double-taxation treaty.

Brokers and Agents

FQ 22. What is the number of practitioners in the country?

The estimates of practitioners are consistently listed as 50,000. Of these a substantial number (30 – 40%) are marginal and illegal operators, i.e. they don't have offices or pay taxes.

FQ 23. What is the number of practitioners in the country including full-time brokers/agents with formal training and part-time, informal brokers?

Legitimate companies throughout the country are estimated to be about 2,000. Approximately 1,000 of those are in the capital city of Kiev. Estimated size is around 30 agents for large companies and 3-5 agents in smaller companies. The other four major cities also have a larger number of companies and mortgage companies are willing to make loans in those markets.

FQ 24. Are there brokers associations active in the market? What number and what percentage of practitioners belong?

The Ukrainian Realtors Association (URA) has been in existence since 1994 and boasts a membership of 500. Reputedly 90% are managers of larger companies in Ukraine. This suggests that there are approximately 15,000 agents in association-related companies (30%); however these agents are largely uninvolved in Association activities.

There are a series of regional organizations in the major cities. Often two associations battle for supremacy and the regional associations are in conflict with the URA.

FQ 25. What training programs are available to enhance productivity?

The URA has a training program leading to certification that is inadequate. It has been in existence for five years and only 200 have qualified. The Kiev Real Estate Union has a certification program that 20% of their members have completed and they have an objective to have 80% complete the course. Larger firms have in-house trainers and coordinators.

FQ 26. Is there a Code of Ethics or standards that practitioners follow? Is the Code enforced?

There is a Code for those who are part of the Ukrainian Realtors Association and the Kiev Real Estate Union. The enforcement is sporadic at best.

FQ 27. Do civil society organizations exist to support the developments of mortgage professionals?

Yes, Ukrainian National Mortgage Association www.unia.com.ua/eng/

Source: IRPF Assessment February 2006

Appendix – Procedures for Registering a Property

1. Obtain an extract from the Bureau of Technical Inventory stating that the building and ownership rights in it are duly registered

Time to complete:

3, 7, 14, 30 days (depends on choice of expedited procedure)

Cost to complete:

UAH 58.4, UAH 49.7, UAH 41.0, UAH 29.2 respectively

Comment:

The seller has to obtain an extract from the Registry of Ownership Rights on Immovable Property or, in those localities where the Registry is not yet established, a certificate from the Bureau of Technical Inventory (BTI) that such building and ownership rights in it are duly registered. Since the building is situated within the territory of Kiev, the procedure to obtain such certificate is stipulated in Decision No: 74/74 of the Kiev City Council dated June 20, 2002 (otherwise, the Order of Ministry of Justice, dated Feb. 7, 2002 would apply). An on-site inspection is performed in order to obtain the certificate.

The documentation shall include:

- Request to issue the certificate
- Founding documents of the company (original and photocopies)
- Information with respect to balance-sheet value of the building
- Documentation confirming title to the building
- Technical passport of the building
- Document confirming authorities of an applicant to represent seller (e.g. Power of Attorney)

2. The notary checks for encumbrances on the property (land and building)

Time to complete: 1 day

Cost to complete: UAH 100

Comment:

Before notarization of the agreement, the notary should check whether or not any prohibitions for real estate alienation and tax encumbrance exist for both the land and the building.

3. Notarization of the sale agreement of the building

Time to complete: 1 day

Cost to complete:

1% of transaction value of the building (state duty) + 1% of property value (State Pension Fund) + Notary's fees

Comment:

The sale purchase agreement of the building is notarized by a private or public notary. Notary's fees are agreed among parties. There could be one single agreement underpinning both sale of building and sale of land or be two separate agreements: the sale of building (warehouse) and the sale of land parcel. Parties can prepare the sale agreements by themselves before notarization, but usually the notary prefers to use his standard proforma. State Duty (fee) is paid to the notary and equals 1% of the transactional value of the building. The buyer of the building will also pay a special assessment in the amount of 1% of building's transactional value to the State Pension Fund. The buyer can make the payment to the State Pension Fund prior to the notarization of building sale agreement or provide the notary with the money to make such payment. The documentation shall include:

- BTI Certificate (obtained in Procedure 1)
- Ownership documents
- Founding documents of the company
- Decision with respect to the sale of the building (if necessary)

4. Submit the notarized sale agreement to the City Bureau of Technical Inventory and Registration of Property Rights in Real Estate

Time to complete: 3, 7, 14, or 30 days

Cost to complete: UAH 48.5, UAH 38.23, or UAH 27.6 respectively

Comment:

When the sale purchase agreement is notarized, the buying company can then proceed with the registration of its property rights. The company will submit the notarized sale agreement to the Kiev City Bureau of Technical Inventory and Registration of Property Rights in Real Estate. The documentation shall include:

- Request to register the property rights
- Notarized sale purchase agreement (original and notarized copy) (obtained in Procedure 3)
- Technical passport of the building
- Document confirming authorities of an applicant to represent the buyer (e.g. Power of Attorney)
- Receipt of fees paid for services
- Copy of company's State Registration Certificate and State Statistics Committee Certificate

5. Obtain a certificate that the seller's rights in the land parcel are duly registered at the Center of State Land Cadastre

Time to complete: 10 days Cost to complete: UAH 30

Comment:

The seller must obtain a certificate that the company's rights in a land parcel are duly registered. Such certificate is issued by the Center of State Land Cadastre within 10 days after receiving the request – but may take longer in practice. In Kiev, such a certificate is issued by the Kiev Center of Land Cadastre.

6. Evaluation of the price of the land

Time to complete: 14 days (simultaneous with following procedures)

Cost to complete: UAH 300

Comment:

The document on evaluation of the price of land can be provided either by the local divisions of the State Centre of the Land Cadastre, or by the legal entities that are licensed by the State Centre of the Land Cadastre for providing such services. In Kiev, such service would cost around 300 UAH (around 60 USD) and take minimum 2 weeks. The procedure of evaluation of the price of land is quite complex, it includes land inspection, market research, etc. Evaluation of the price of land is required before the notarization of the agreement.

7. Notarization of the sale agreement of the land parcel

Time to complete: 1 day (simultaneous with procedure 6)

Cost to complete: 1% of transaction value of the land (state duty) + Notary fees (already paid in Procedure 3)

Comment:

The sale agreement of the land parcel is notarized by a notary public. In order to notarize the agreement, the notary should have checked whether any prohibitions for real estate alienation, tax and other encumbrances exist (done in Procedure 2). Notary's fees are agreed among parties. State Duty (fee) is paid to the notary and equals 1% of the transactional value of the land. The documentation shall include:

- Certificate that the seller's right in the land parcel are duly registered (obtained in Procedure 5)
- The State Certificate on Land Ownership
- Constituent and statutory documents of the Company
- Decision with respect to the sale of the building (if necessary)

8. Submit a request to obtain the State Certificate on Land Ownership under the name of the new owner

Time to complete: 1 day (simultaneous with procedure 6)

Cost to complete: no cost

Comment:

The next step is to obtain the State Certificate On Land Ownership under the name of the new owner and register the same with the branch of the Center of State Land Cadastre that has jurisdiction. In Kiev, the request to register the title under the name of the new owner is submitted to Kiev Chief Administration on Land Resources (from there it goes to the Municipal Enterprise Kiev Center of Land Cadastre). The buyer should submit a request for issuance of State Certificate On Land Ownership together with a photocopy of the sale purchase agreement. The documentation shall include:

- Photocopy of the sale purchase agreement
- Request for issuance of State Certificate On Land Ownership

9. Obtain technical documentation from the Kiev Chief Administration on Land Ownership

Time to complete: 10 days (simultaneous with procedure 6)

Cost to complete: UAH 5,700

Comment:

Then the buyer requests to develop the technical documentation (the development of such documentation is required by applicable law in order to complete the registration of title under the name of the new owner) and executes an agreement to prepare such documentation with a separate division (enterprise) of the Kiev Chief Administration on Land Resources. It takes approximately 10 days to develop the documentation in such a case. The preparation of technical documentation will include the cadastral survey, the cadastral survey of adjacent property, and land area calculation.

10. Obtain the State Certificate on Land Ownership under the name of the new owner

Time to complete: 54-85 days (simultaneous with previous procedures)

Cost to complete: UAH 25 (registration fee)

Comment:

The next step is to obtain the State Certificate On Land Ownership under the name of the buyer and register it with the branch of the Center of State Land Cadastre that has jurisdiction. In Kiev it will be the Municipal Enterprise Kiev Center of Land Cadastre. When the technical documentation is prepared in Procedure 8, it is transferred to Kiev Chief Administration on Land Resources for review and preparation of a draft decision of the Kiev City Council (30-45 days). When a decision of the Kiev City Council is adopted, and the certificate prepared, then it awaits signature from the Mayor of the city (14-30 days). Then, the Municipal Enterprise Kiev Center of Land Cadastre registers the State Certificate (10 days).

Source – *Doing Business* – Registering Property, World Bank